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In the U.S. Patent and Trademark Office

Applicants: Anderson
Serial No.: 10/729,574
Filed: 12/04/2003
For: Human-Computer Interfaces Incorporating Haptics And Path-Based Interaction

Group: 2173
Paper No.:
Examiner: Basom, Blaine T.

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Request for Reconsideration of Finality of Rejection

The Office mailed an Office Action on 5/20/2005. The Office made the Action final, asserting that "Applicant's amendment necessitated any new grounds of rejection ..." Applicant respectfully traverses this assertion, and requests the final action be withdrawn and a nonfinal action issued. See MPEP 706.07(d).

A final rejection is proper "except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims..." See MPEP 706.07(a). In the 5/20/2005 Office Action, the Office introduced a new ground of rejection of Claim 3: a rejection under 35 U.S.C. 102(e) based on U.S. Patent 6,801,187 (*Stewart*). See Office Action page 11.

Claim 3 as originally filed depended from Claim 1. Applicant's amendment of 1/6/1005 rewrote Claim 3 in independent form, substituting the exact wording of parent Claim 1 in place of the phrase "A method as in Claim 1." See 1/6/2005 Response page 3. Claim 3 after the amendment accordingly encompasses exactly the same scope as originally presented, and is worded in exactly the same manner. Since Claim 3 was not changed by the amendment, the amendment could not have necessitated the new grounds of rejection presented in the 5/20/2005 Office Action.

Further, "before final rejection is in order a clear issue should be developed between the examiner and applicant." See MPEP 706.07. As mentioned above, Claim 3 is subject to a new ground of rejection even though it is unchanged. Most of the other claim amendments were made responsive to the Office's requirements, or to change their dependency from canceled Claim 1 to unchanged Claim 3. Also, the present rejection is largely based on a new reference, applied against claims of essentially the same subject matter as previously presented. See MPEP 706.07. The finality of the present rejection deprives Applicant of its opportunity to a full and fair hearing, answering or amending in response to the new references asserted.

Applicant submits that it was improper to make the present action final, and requests the final action be withdrawn and a nonfinal action issued. See MPEP 706.07(d).

Respectfully submitted,

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July 15, 2005
date

Certificate of Mailing

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited on the date shown below with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

July 15, 2005

date

V. Gerald Grafe

name